

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008SF2373
)	EEOC NO.: 21BA81308
PATRICIA A. LOGUE)	ALS NO.: 09-0600
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen, presiding, upon Patricia A. Logue's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2008SF2373; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On February 27, 2008, the Petitioner filed an unperfected charge of discrimination with the Respondent, perfected on February 29, 2008. The Petitioner alleged her former employer, Tobacco Shack/Sharkey, Inc. ("Employer") failed to return her to work because of a perceived physical disability (sprained hip/severe hip disorder), in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act"). On September 10, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On October 14, 2009, the Petitioner filed this timely Request.
2. In 2007 the Petitioner worked as a part-time cashier for the Employer, which is a business engaged in the sale of liquor, cigarettes, and other items. In August 2007, the Employer was sold to H. and A. Quidan (sometimes collectively referred to as "the Quidans"). The Petitioner continued to work for the Employer under the Quidans' ownership. The last day the Petitioner worked for the Employer was December 12, 2007.
3. On December 13, 2007, the Petitioner injured her hip. The Petitioner instructed a family member to tell the Employer she would be temporarily unavailable to work.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

4. On December 20, 2007, the Petitioner patronized the Employer as a customer. At that time the Petitioner was using a cane and walking with a pronounced limp. The Petitioner contends that, A. Quidan, the Employer's owner and manager, saw the Petitioner that day, and asked her why she was limping. The Petitioner explained the cause of her limp, said she would be returning to work soon, and completed her purchase. During the investigation, the Petitioner stated that A. Quidan did not make any negative comments regarding her limp or her use of a cane.
5. On December 26, 2007, the Petitioner again went to the Employer. The Petitioner told A. Quidan that she wanted to return to work. A. Quidan told the Petitioner her services were no longer needed.
6. The Employer stated it declined to continue to employ the Petitioner because she was unreliable. Further the Quidans determined they had learned the business sufficiently to run it without any assistance.
7. In her Request, the Petitioner states that she kept in contact with the Employer after her injury and provided the Employer with doctor statements. Further, the Petitioner now states in her Request that the Employer told her that she could return to work after she stopped limping. The Petitioner also states her witnesses were not contacted by the Respondent. There is no evidence the Petitioner had submitted a list of witnesses to the Respondent prior to the dismissal of her charge. Further, in her Request, the Petitioner does not identify these witnesses, provide contact information for any witnesses, nor state what relevant evidence these witnesses could provide.
8. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for lack of substantial evidence because it found no evidence of a nexus between the Petitioner's physical condition and the Employer's decision not to retain the Petitioner as a part-time cashier.

Conclusion

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, * 2 (March 7, 1995)(1995 WL 793258).

The Petitioner merely speculates that the Employer, via A. Quidan, perceived her to be disabled on December 20th and December 26th. However, mere speculation or conjecture does not

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constitute evidence of discrimination. See Willis v. Illinois Dep't of Human Rights, 307 Ill.App.3d 317, 326, 718 N.E.2d 240 (4th Dist. 1999). During the investigation, the Petitioner admitted that the Employer made no negative comments regarding her limp and use of a cane—at most, she was asked by one of the Quidans why she was limping. The Commission is not inclined to give probative weight to the Petitioner's new and contradictory assertion that the Employer told her she could return to work once she stopped limping. Further, there is no evidence the Respondent failed to interview any witnesses or otherwise fully investigate the Petitioner's charge.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Tobacco Shack/Sharkey Inc., as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 28th day of April 2010.

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen